

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, ET AL.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
vs.)	
)	FILE NO. 1:17-cv-2989-AT
BRAD RAFFENSPERGER,)	
ET AL.,)	
)	
Defendants.)	

**COALITION PLAINTIFFS' RESPONSE TO STATE DEFENDANTS'
MOTION TO QUASH**

The Coalition Plaintiffs file this Response to the State Defendants' Motion to Quash Non-Party Subpoena and Request for Relief and Memorandum of Law in Support Thereof (Doc. 369) ("the Motion"). As explained below, the Motion to Quash should be denied as moot because the Coalition Plaintiffs have withdrawn the Supboena (which was directed at the Morgan County Board of Elections and Registration) because (a) the date for compliance with the subpoena (April 30, 2019) has passed and (b) the Court has not formally set a date for discovery to begin.

In an April 15, 2019 email, counsel for Coalition Plaintiffs informed counsel for Morgan County (Christian Henry of the Hall Booth Smith firm) and counsel for the Defendants that Coalition Plaintiffs would follow up on compliance with the

subpoena when this Court reopened discovery. In that email, which is attached to the Motion as Exhibit 2 (Doc. 369-2), counsel stated:

Judge Totenberg has not issued a scheduling order which, we believe, will set a start date for discovery, but we wanted to give this [subpoena] to you right away to give you maximum opportunity to respond, and because the Court has made it clear that expedited discovery is expected. I will let you know as soon as we get a scheduling order from the Court.

Counsel then asked whether Mr. Henry would agree to accept service of the subpoena on behalf of his client.

The State Defendants' Motion to Quash is premature in light of counsel's statements concerning the timing of the subpoena in light of pending decisions on the start date of discovery. Even though it may not be necessary, Coalition Plaintiffs have withdrawn the Subpoena. Coalition Plaintiffs will re-issue the subpoena to Morgan County when discovery opens or when the Court has otherwise approved service of the subpoena. At that time, Coalition Plaintiffs will formally serve Morgan County with the subpoena (with prior notice to the parties). This will eliminate the bulk of the grounds for the State Defendants' Motion to Quash (*see id.*, pages 1 through 15). At the appropriate time, if necessary, the Coalition Plaintiffs will respond to the State's argument that the information sought is not relevant, that it is confidential, and that if the DRE ballot images (cast

vote records) are publicly disclosed, such disclosure will violate “secrecy of the ballot.” (*Id.*, at 23).

The Motion to Quash, therefore, should be dismissed, or denied, as moot. A proposed order is attached hereto as Exhibit A.

Respectfully submitted this 13th day of May, 2019.

/s/ Bruce P. Brown

Bruce P. Brown
Georgia Bar No. 064460
BRUCE P. BROWN LAW LLC
Attorney for Coalition for
Good Governance
1123 Zonolite Rd. NE
Suite 6
Atlanta, Georgia 30306
(404) 881-0700

/s/ Robert A. McGuire, III

Robert A. McGuire, III
Admitted Pro Hac Vice
(ECF No. 125)
Attorney for Coalition
for Good Governance
Robert McGuire Law Firm
113 Cherry St. #86685
Seattle, Washington 98104-2205
(253) 267-8530

/s/ Cary Ichter

Cary Ichter
Georgia Bar No. 382515
Attorney for William Digges III,
Laura Digges, Ricardo Davis and Megan Missett
Ichter Davis LLC
3340 Peachtree Road NE
Suite 1530
Atlanta, Georgia 30326
(404) 869-7600

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Bruce P. Brown

Bruce P. Brown

Georgia Bar No. 064460

BRUCE P. BROWN LAW LLC

Attorney for Coalition for
Good Governance

1123 Zonolite Rd. NE

Suite 6

Atlanta, Georgia 30306

(404) 881-0700

CERTIFICATE OF SERVICE

This is to certify that I have this day caused the foregoing to be served upon all other parties in this action by via electronic delivery using the PACER-ECF system.

This 13TH day of May, 2019.

/s/ Bruce P. Brown

Bruce P. Brown

Georgia Bar No. 064460

BRUCE P. BROWN LAW LLC

Attorney for Coalition for

Good Governance

1123 Zonolite Rd. NE

Suite 6

Atlanta, Georgia 30306

(404) 881-0700

E
X
H
I
B
I
T

A

